



ANALYSIS OF THE NEW JERSEY BUDGET

**DEPARTMENT OF
ENVIRONMENTAL
PROTECTION**

FISCAL YEAR

2004 - 2005

NEW JERSEY STATE LEGISLATURE

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DEPARTMENT OF ENVIRONMENTAL PROTECTION

Budget Pages..... C-14; C-22; C-28; C-34; D-107 to
D-136; E-9 to E-11

Fiscal Summary (\$000)

	Expended FY 2003	Adjusted Appropriation FY 2004	Recommended FY 2005	Percent Change 2004-05
State Budgeted	\$440,909	\$431,303	\$426,831	(1.0)%
Federal Funds	52,787	220,486	221,033	0.2%
<u>Other</u>	<u>20,659</u>	<u>42,299</u>	<u>51,446</u>	<u>21.6%</u>
Grand Total	\$514,355	\$694,088	\$699,310	0.8%

Personnel Summary - Positions By Funding Source

	Actual FY 2003	Revised FY 2004	Funded FY 2005	Percent Change 2004-05
State	3,028	3,082	3,293	6.8%
Federal	111	114	108	(5.3)%
<u>Other</u>	<u>84</u>	<u>82</u>	<u>79</u>	<u>(3.7)%</u>
Total Positions	3,223	3,278	3,480	6.2%

FY 2003 (as of December) and revised FY 2004 (as of September) personnel data reflect actual payroll counts. FY 2005 data reflect the number of positions funded.

Introduction

The Department of Environmental Protection (DEP) protects and manages the State's natural resources, including its fish and wildlife. The DEP accomplishes this mandate by preserving open space and historical sites for recreation and conservation purposes; monitoring the State's rivers, beaches and ocean waters; regulating air and water pollution, radiation, pesticides, and hazardous waste generation; coordinating the remediation of pollution problems; and managing various aspects of solid waste disposal. The department operates numerous types of remedial, research and regulatory programs, many of which are directly or indirectly supported by revenues generated from general user fees, permit or license fees, penalty and fine charges, special taxes, bond acts, federal funds, and constitutional dedications.

Key Points

- The department's total **State Budgeted** appropriation is recommended at \$426.8 million, a decrease of \$4.5 million or 1 percent less than the FY 2004 adjusted funding level. State monies are allocated from the General Fund and the Property Tax Relief Fund.
- The recommended **General Fund** (GF) appropriation is \$418.8 million, a reduction of \$2.0 million below the current adjusted funding level. However, exclusive of Debt Service obligations, the recommended GF total is \$355.6 million, a net increase of \$2.8 million or 1 percent more than the FY 2004 adjusted GF appropriation.
- The **Property Tax Relief Fund - State Aid** recommendation is \$8.0 million, a decrease of \$2.5 million under the current appropriation total. This sum will support the Payment in Lieu of Taxes program at its present funding level. The funding reduction is attributable to the County Environmental Health Act account being shifted to GF support.
- The **Direct State Services** (DSS) portion of the GF is recommended at \$212.1 million, a reduction of \$768,000 or less than 1 percent under the current adjusted appropriation. Notable changes in the **DSS** budget are listed in the following four items:

The Tidelands Peak Demands account is increased by \$500,000, to \$2.7 million, to hire 12 new employees to bolster the program's riparian management activities.

The Toxic Catastrophe Prevention program is increased by \$250,000, to \$1.1 million, to meet higher domestic security costs.

Various equipment accounts are reduced by a total of \$729,000 to reflect master lease savings based on lower line of credit costs.

A supplemental appropriation of \$1.5 million from excess fine revenues to expand the enforcement and compliance capabilities of the air, water and land use units is not continued as a line item in FY 2005. Instead, it is recommended as a budget language appropriation.

- The **Grants-In-Aid** (GIA) section of the GF is recommended at \$6.3 million, a decrease of \$3.0 million from the FY 2004 funding level. Current funding for Statewide Livable Communities grants, \$3.3 million, is discontinued while new funding for Waterloo Village operations, \$250,000, is recommended. Stormwater grants are continued at \$6.0 million.
- The **GF-State Aid** (SA) appropriation is recommended at \$9.0 million, an increase of \$4.8 million over the current funding level. Of this increase, \$2.3 million is for a new Local Tire Management Program while \$2.5 million represents a funding source shift for the County Environmental Health Act account, from the Property Tax Relief Fund to the Spill Compensation Fund in the GF.
- **Capital Construction** (CC) appropriations are recommended at \$128.3 million, a net increase of \$1.8 million. In Natural Resource Management, major changes include the addition of \$4.0 million for Parks improvements, the elimination of \$3.0 million for dam repairs, and a reduction of \$1.1 million for HR-6 Flood Control projects. In Site Remediation, half of the \$39.6 million Corporation Business Tax (CBT) dedication for private underground tank remediation is recommended in a new account, Hazardous Substance Discharge Remediation Loans and Grants. Pursuant to recent amendments to the

Key Points (Cont'd)

State Constitution, these monies will be used for brownfields remediation projects.

- The **Debt Service** portion of the GF appropriation is recommended at \$63.2 million, a decrease of \$4.8 million or 7 percent less than the current year requirement.
- **Federal Funds** are anticipated at \$221 million in FY 2005, a net increase of \$547,000 over the FY 2004 authorized total. No significant funding changes in current programs are indicated. The largest new funding item is \$800,000 for Marine Fisheries Law Enforcement.
- The **All Other Funds** or off-budget segment of the budget is estimated at \$51.4 million, a net increase of \$9.1 million or 22 percent over the current adjusted total. Major increases include \$2.0 million for the Urban Forest Energy Efficiency Initiative, \$3.8 million for Local Share-Shore Protection, and the balance from anticipated rate increases for various appropriated fees and fines.
- Significant new or amended budget language provisions concern the expanded allocation of Spill Compensation Fund revenues to support additional departmental programs and operations; and the expanded allocation of constitutionally dedicated CBT monies to finance brownfields remediation and support a new State underground storage tank inspection program.
- In **Schedule I - State Revenues** of the Budget Recommendation, revenues from new fees are proposed for Tire Clean-Up Surcharge (\$12.3 million, of which \$2.3 million would support is Local Tire Management Program cited above); Air Toxics Surcharge (\$6 million); Hazardous Waste Disposal (\$11 million); and Petro Chemical Environmental Impact (\$150 million). Projected revenues from rate increases for existing fees are also indicated for solid waste management, radiation protection, toxic catastrophe prevention and nuclear emergency response assessment. These existing fee charges directly or indirectly support the corresponding sections of the department's budget.

Background Papers

- Financial Support to Municipalities for State Preservation Actions p. 26
- The State Transfer of Development Rights Program p. 27

Program Description and Overview

The functions and programs of the Department of Environmental Protection (DEP) are grouped and displayed in the Budget Recommendation within six Statewide Program designations: Natural Resource Management; Science and Technical Programs; Site Remediation and Waste Management; Environmental Regulation; Environmental Planning and Administration; and Compliance and Enforcement. The DEP budget also includes funding or administrative support for various independent agencies that are budgetarily located "in, but not of" the department, such as the Natural Lands Trust, the Palisades Interstate Park Commission, the Hazardous Waste Facilities Siting Commission, the Pinelands Commission and the N.J. Environmental Infrastructure Trust.

It is also worth noting that the DEP helps manage two major programs that are not funded from its budget: First, the "Solid Waste Management-County Environmental Investment Debt Service Aid," located on page D-428 in the Department of the Treasury section of the budget, provides the State subsidy (\$57.3 million) for counties with stranded debt costs incurred from the building of solid waste facilities. Second, the "Garden State Preservation Trust Fund Account," on page D-449 in the Interdepartmental Accounts section of the budget, contains the annual appropriation of \$98 million from constitutionally dedicated sales tax revenues for the State's Open Space initiative. These funds support the State's Farmland Preservation, Historic Preservation and Green Acres programs, the last being administered by the department.

Budget/Organizational Structure

In the Budget Recommendation, each Statewide Program consists of program classifications. These designations generally correspond to an agency's functional or organizational structure and reflect the operating levels at which specific appropriations are recommended. The following is a brief description of each Statewide Program (with its two-digit budget code) and corresponding program classifications as they appear in the DEP section of the Budget Recommendation:

Natural Resource Management (42). Comprised of seven program classifications: Forest Resource Management; Parks Management; Hunters' and Anglers' License Fund; Shellfish and Marine Fisheries Management; Wildlife Management; Natural Resources Engineering; and the Palisades Interstate Park Commission. Organizationally, this portion of the budget funds the Division of Fish and Wildlife, the Division of Parks and Forestry, the Green Acres Office, the Engineering and Construction unit (shore protection, dredging, dam safety, flood control), and the New Jersey portion of the Palisades Interstate Park Commission.

Science and Technical Programs (43). Comprised of seven program classifications: Water Supply; Water Monitoring and Standards; Land Use Regulation; Science, Research and Technology; New Jersey Geological Survey; Environmental Remediation and Monitoring; and Watershed Management. This part of the budget supports most of the department's research, monitoring and planning functions in the areas of land use (i.e. waterfront development, coastal zone management, wetlands), water supply, water quality, geology, watershed management and environmental assessment/risk analysis.

Site Remediation and Waste Management (44). Comprised of three program classifications: Solid and Hazardous Waste Management; Remediation Management and Response; and Environmental Remediation and Monitoring. This segment of the budget funds the regulation of solid and hazardous waste activities and the management and cleanup of properties contaminated by hazardous substances. These duties are carried out by the Division of Solid and Hazardous Waste Management, the Division of Remediation Support, and the Division of Remediation Management and Response. Most accounts are supported by constitutionally dedicated tax revenues, the Spill Compensation Fund, responsible party recoveries, federal funds, and bonds.

Program Description and Overview (Cont'd)

Environmental Regulation (45). Comprised of four program classifications: Radiation Protection; Air Pollution Control; Water Pollution Control; and Public Wastewater Facilities. Organizationally, this section of the budget supports the Division of Safety and Health, the Division of Water Quality, the Division of Air Quality and the New Jersey Environmental Infrastructure Trust. Major program activities include the regulation of radiation sources, air pollution facilities, public wastewater facilities, surface and groundwater discharge control, clean water protection and right-to-know compliance.

Environmental Planning and Administration (46). Comprised of two program classifications: Regulatory and Governmental Affairs, and Administration and Support Services. Organizationally, this portion of the budget funds the Commissioner's Office and all the department's support units that perform administrative, budget, legal, legislative and public information functions. It also includes State Aid funding for the Pinelands Commission, mosquito control assistance, and Payment in Lieu of Taxes aid to municipalities.

Compliance and Enforcement (47). Comprised of five program classifications: Air Pollution Control; Pesticide Control; Water Pollution Control; Land Use Regulation; and Solid and Hazardous Waste Management. Organizationally, this part of the budget supports the units responsible for compliance and enforcement of laws and regulations pertaining to the program classification areas within this Statewide Program. This category also includes State Aid funding to county health agencies to support their efforts in enforcing State laws on behalf of the department.

Fiscal and Personnel Summary

AGENCY FUNDING BY SOURCE OF FUNDS (\$000)

	Expended FY 2003	Adj. Approp. FY 2004	Recom. FY 2005	Percent Change	
				2003-05	2004-05
General Fund					
Direct State Services	\$234,645	\$212,825	\$212,057	(9.6)%	(0.4)%
Grants-In-Aid	8,040	9,250	6,250	(22.3)%	(32.4)%
State Aid	19,974	4,258	9,011	(54.9)%	111.6%
Capital Construction	91,239	126,464	128,273	40.6%	1.4%
Debt Service	76,832	68,053	63,240	(17.7)%	(7.1)%
Sub-Total	\$430,730	\$420,850	\$418,831	(2.8)%	(0.5)%
Property Tax Relief Fund					
Direct State Services	\$0	\$0	\$0	0.0%	0.0%
Grants-In-Aid	0	0	0	0.0%	0.0%
State Aid	10,179	10,453	8,000	(21.4)%	(23.5)%
Sub-Total	\$10,179	\$10,453	\$8,000	(21.4)%	(23.5)%
Casino Revenue Fund	\$0	\$0	\$0	0.0%	0.0%
Casino Control Fund	\$0	\$0	\$0	0.0%	0.0%
State Total	\$440,909	\$431,303	\$426,831	(3.2)%	(1.0)%
Federal Funds	\$52,787	\$220,486	\$221,033	318.7%	0.2%
Other Funds	\$20,659	\$42,299	\$51,446	149.0%	21.6%
Grand Total	\$514,355	\$694,088	\$699,310	36.0%	0.8%

PERSONNEL SUMMARY - POSITIONS BY FUNDING SOURCE

	Actual FY 2003	Revised FY 2004	Funded FY 2005	Percent Change	
				2003-05	2004-05
State	3,028	3,082	3,293	8.8%	6.8%
Federal	111	114	108	(2.7)%	(5.3)%
All Other	84	82	79	(6.0)%	(3.7)%
Total Positions	3,223	3,278	3,480	8.0%	6.2%

FY 2003 (as of December) and revised FY 2004 (as of September) personnel data reflect actual payroll counts. FY 2005 data reflect the number of positions funded.

AFFIRMATIVE ACTION DATA

Total Minority Percent	14.7%	14.8%	15.4%	----	----
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Significant Changes/New Programs (\$000)

<u>Budget Item</u>	<u>Adj. Approp. FY 2004</u>	<u>Recomm. FY 2005</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
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NATURAL RESOURCE MANAGEMENT**DIRECT STATE SERVICES**

**Additions,
Improvements and
Equipment**

	\$908	\$106	(\$802)	(88.3)%	D-113
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This "major object" account budgets money for operating expenses such as data processing equipment, building and grounds improvements, and maintenance or purchase of vehicular equipment. The recommended amount is mostly affected by a decrease of \$687,000 in the Division of Fish and Game, whose budget is largely supported by fishing and hunting license revenues. This amount has been reallocated to pay for employee benefit costs.

GRANTS-IN-AID

**Statewide Livable
Communities**

	\$3,250	\$0	(\$3,250)	(100.0)%	D-114
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This grant program was first established in the FY 2003 Budget with an appropriation of \$5 million. It was designed to help municipalities with the costs of building or upgrading playgrounds and other recreational or park facilities. In addition to the current appropriation, which was included in the FY 2004 budget by the Legislature, \$1.2 million in similar appropriations to other departments were transferred to this account in March, 2004 to augment grant awards.

Waterloo Village	\$0	\$250	\$250	—	D-114
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This grant will be used to help offset an anticipated deficit in the operations and maintenance budget of Waterloo Village, an historic site located in Stanhope, Sussex County operated by the Waterloo Foundation for the Arts. Various State-owned structures are located in this restored, colonial-era village. Recommended budget language also authorizes the department to use State Parks capital funding to support improvements or new construction at this site if the need arises.

CAPITAL CONSTRUCTION

Bureau of Parks:

Parks Improvements	\$0	\$4,000	\$4,000	—	D-114
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The recommended amount will be used to address longstanding maintenance and improvement needs within the State Park system. According to the Budget Overview, high priority projects that may receive funding include Rockingham historic site, Batsto Mansion, Princeton Battlefield Monument, and Atsion Mansion.

Significant Changes/New Programs (\$000) (Cont'd)

<u>Budget Item</u>	<u>Adj. Approp. FY 2004</u>	<u>Recomm. FY 2005</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
Natural Resources					
Engineering:					
Dam Repairs	\$3,000	\$0	(\$3,000)	(100.0)%	D-115

The current appropriation was scheduled to support three dam restoration projects: Point View (\$500,000), Great Notch Reservoir (\$900,000), and Dundee (\$1.6 million). New funding is not recommended in light of the approval by voters in November, 2003 of a \$200 million bond issue authorized under the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003" (P.L. 2003, c.162). This act provides \$15 million in bond monies for restoration of State-owned dams and \$95 million in financial assistance to owners of privately-owned dams.

ALL OTHER FUNDS

Forest Resource					
Management	\$250	\$2,236	\$1,986	794.4%	D-116

The recommended total represents the initial contribution of \$2 million by the Board of Public Utilities (BPU) for the Urban Forest Energy Efficiency Initiative. This amount, however, was actually made available to the department in August, 2003 but is not displayed in the FY 2004 totals of the Budget Recommendation.

The Urban Forest Energy Efficiency Initiative was announced by the Governor in his 2003 State of the State address. It is a plan to plant 100,000 new trees in urban and older suburban communities over a three year period for the purpose of reducing urban heat islands and facilitating energy conservation. The estimated cost of the plan, \$38 million, will be financed by the BPU from its Clean Energy Fund, which is supported by the societal benefit charge on utility bills. The department has previously indicated that it will apply for \$12 million annually after the initial \$2 million allocation.

Natural Resources					
Engineering	\$2,500	\$6,250	\$3,750	150.0%	D-116

The recommended amount indicates an anticipated increase in local government matching funds for federally-funded beach restoration projects. Federal appropriations normally cover 65 percent of project costs, with the State contributing 25 percent and local governments responsible for 10 percent.

Significant Changes/New Programs (\$000) (Cont'd)

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2004</u>	<u>Recomm.</u> <u>FY 2005</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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SCIENCE AND TECHNICAL PROGRAMS**DIRECT STATE SERVICES****Special Purpose:**

Tidelands Peak Demands	\$2,176	\$2,676	\$500	23.0%	D-120
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This account supports the Tidelands Management Program, which oversees the sales, grants, leases, licenses and rentals of State-owned riparian lands. Pursuant to budget language, the account is supported by revenues generated from the fees associated with these transactions. The current appropriation is increased to enable this unit to hire 12 additional employees to manage the backlog of applications and cases that have accumulated over the past several years.

SITE REMEDIATION AND WASTE MANAGEMENT**DIRECT STATE SERVICES****Additions,**

Improvements and Equipment	\$318	\$826	\$508	159.7%	D-124
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This "major object" account budgets money for operating expenses such as data processing equipment, building and grounds improvements, and maintenance or purchase of vehicular equipment. The recommended amount is attributable to an increase of \$508,000 in the Division of Remediation Management and Response, whose budget is supported by dedicated revenues from the Hazardous Discharge Site Cleanup Fund and the Spill Compensation Fund. The additional funding will be used primarily for vehicular replacement expenses.

STATE AID**Local Tire Management**

Program	\$0	\$2,300	\$2,300	—	D-124
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This is a new program proposed to support local governments in cleaning up abandoned scrap tire piles that currently litter many areas of New Jersey. The program would be funded, pending enabling legislation, by a new \$1.50 per tire surcharge on the sale of all new tires in the State. It is estimated that the surcharge will generate up to \$12.3 million annually, with \$10 million being allocated to the Department of Transportation's snow removal budget.

It should be noted that a similar effort directed at counties, called the Scrap Tire Management Fund Entitlement Program, was established in FY 2001 and lasted for two years. It was financed both years by \$2.4 million from the Sanitary Landfill Facility Contingency Fund. The program was discontinued in FY 2003 because the Fund did not have adequate balances to support it further.

Significant Changes/New Programs (\$000) (Cont'd)

<u>Budget Item</u>	<u>Adj. Approp. FY 2004</u>	<u>Recomm. FY 2005</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
CAPITAL CONSTRUCTION					
Site Remediation:					
Private Underground Tank Remediation- Constitutional Dedication	\$38,770	\$19,800	(\$18,970)	(48.9)%	D-125
Hazardous Substance Discharge Remediation Loans and Grants- Constitutional Dedication					
	\$0	\$19,800	\$19,800	—	D-125

The recommended funding for these two accounts is a direct result of voter approval in November, 2003 to amend Article VIII, Section II, paragraph 6 of the State Constitution. The amendments authorize environmentally dedicated Corporation Business Tax (CBT) revenues to finance loans or grants for hazardous discharge cleanups of brownfields sites, and to establish a State underground storage tank inspection program. The amendment allocates one-half of the CBT amount annually dedicated to the Private Underground Storage Tank Remediation Program to the Brownfields Program in the New Jersey Economic Development Authority (EDA). Hence, the two accounts above are adjusted accordingly to reflect this allocation.

In addition, the amendment also directs that \$2 million be allocated from the brownfields account to support the new underground storage tank inspection program. Proposed budget language further authorizes this transfer. The existing CBT dedication for underground storage tank remediation provides loans and grants to businesses, private individuals and local governments to upgrade, replace or remediate underground storage tanks and contaminations. Like the Brownfields Program, this program is administered jointly by the department and the EDA.

ENVIRONMENTAL REGULATION**DIRECT STATE SERVICES**

Special Purpose:

Toxic Catastrophe Prevention	\$834	\$1,084	\$250	30.0%	D-129
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The recommended increase is directly related to a scheduled fee increase to support increased domestic security duties within the program.

Significant Changes/New Programs (\$000) (Cont'd)

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2004</u>	<u>Recomm.</u> <u>FY 2005</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
Nuclear Emergency Response	\$1,382 \$838 S	\$2,217	(\$3)	(0.1)%	D-129

The amount designated above as "S" is a supplemental appropriation derived from electrical utility assessments collected in excess of the budgeted revenue anticipation. The regular appropriation above is also supported from this funding source. Current budget language appropriates any such excess, up to \$838,000, directly to the account to support program costs. Although the recommended amount nearly matches the total of the two FY 2004 appropriations, it actually represents an increase in the program's budget because an additional \$928,000 in excess revenues, as authorized by proposed budget language, will likely be appropriated during FY 2005.

ALL OTHER FUNDS

Radiation Protection	\$337	\$1,265	\$928	275.4%	D-129
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As mentioned above, the recommended off-budget sum reflects the appropriation of \$928,000 in excess revenues from electrical utility assessments to the Nuclear Emergency Response account. This amount is authorized to support program costs pursuant to proposed budget language.

ENVIRONMENTAL PLANNING AND ADMINISTRATION**DIRECT STATE SERVICES**

Additions, Improvements and Equipment	\$1,013	\$523	(\$490)	(48.4)%	D-131
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This "major object" account budgets money for operating expenses such as data processing equipment, building and grounds improvements, and maintenance or purchase of vehicular equipment. The recommended decrease is attributable to anticipated Master Lease savings based on a reduced line of credit costs for equipment and services throughout the department.

COMPLIANCE AND ENFORCEMENT**STATE AID**

County Environmental Health Act	\$0	\$2,453	\$2,453	—	D-135
County Environmental Health Act (PTRF)	\$2,453	\$0	(\$2,453)	(100.0)%	D-135

This account supports county health agencies in enforcing State environmental laws at the local level. The changes above indicate a shift of the account's funding source, from the State Property Tax Relief Fund to the Spill Compensation Fund, as authorized by recommended budget language.

Significant Changes/New Programs (\$000) (Cont'd)

<u>Budget Item</u>	<u>Adj. Approp. FY 2004</u>	<u>Recomm. FY 2005</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
ALL OTHER FUNDS					
Air Pollution Control	\$0	\$600	\$600	—	D-135
Water Pollution Control	\$1,170	\$1,470	\$300	25.6%	D-135
Land Use Regulation	\$681	\$1,353	\$672	98.7%	D-135

The recommended amounts in these off-budget accounts include \$1.5 million in fine revenues from the cited regulatory areas that are estimated to be collected in excess of anticipated fine revenue totals. Pursuant to proposed budget language, these excess receipts, if realized, would be appropriated to the related accounts for program support. Please note, however, that the amounts above do not actually represent increases over the FY 2004 totals because the Budget Recommendation includes a supplemental appropriation of \$1.5 million on page D-135 under "Services Other Than Personal." Again, budget language authorizes the appropriation of these monies to the department in FY 2004 to help support the regulation of the above cited program areas.

Language Provisions

NATURAL RESOURCE MANAGEMENT

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Grants-In-Aid:

The unexpended balance as of June 30, 2003 for public and private dam repair, made available through a transfer to the Department of Environmental Protection from the unexpended balances in accounts established pursuant to the "Emergency Disaster Relief Act of 1999," and from the Emergency Services Fund allocation for Hurricane Floyd, is appropriated.

No comparable language.

Capital Construction:

The unexpended balance as of June 30, 2003 for public and private dam repair, made available through a transfer to the Department of Environmental Protection from the unexpended balances in accounts established pursuant to the "Emergency Disaster Relief Act of 1999," and from the Emergency Services Fund allocation for Hurricane Floyd, is appropriated.

No comparable language.

p. B-58

Capital Construction:

Of the amount hereinabove for Dam Repairs, such sums as are necessary may be transferred to Grants--In--Aid for the repair of non--State owned dams, subject to the approval of the Director of the Division of Budget and Accounting.

No comparable language.

Explanation

The first two provisions above are no longer needed in light of the approval by voters in November, 2003 of the \$200 million bond issue authorized under the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003" (P.L. 2003, c.162). This act provides \$15 million in bond funds for restoration of State-owned dams and \$95 million in financial assistance to owners of privately-owned dams. The third provision above, which refers to the \$3 million appropriation in FY 2004 for State-owned dam projects, is also eliminated for the same reason as the first two provisions. No such funding is recommended for this line item in FY 2005.



Language Provisions (Cont'd)

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p. B-58

Capital Construction:

An amount not to exceed \$500,000 is allocated from the capital construction appropriation for eligible Shore Protection Fund Projects for repairs to shore protection structures at Palisades Interstate Park Commission facilities in New Jersey, subject to the approval of the Director of the Division of Budget and Accounting.

No comparable language.

Explanation

This was a one-time funding authorization included in the current budget by the Legislature. The Shore Protection Fund Projects account is supported by realty transfer tax revenues from which \$25 million is dedicated annually for shore-related capital projects.

 SCIENCE AND TECHNICAL PROGRAMS
2004 Appropriations Handbook2005 Budget Recommendations

p. B-60

Direct State Services:

In addition to the amount appropriated hereinabove for Land Use Regulation, Water Supply and Watershed Management, and Science, Research and Technology, an amount not to exceed \$1,500,000 shall be made available as necessary to expedite Smart Growth regulatory permitting, subject to the approval of the Director of the Division of Budget and Accounting, provided however, that any such costs which are consistent with the purposes of the Water Resources Monitoring and Planning -- Constitutional Dedication appropriation shall first be applied there.

No comparable language.

Language Provisions (Cont'd)

Explanation

This provision was included in the current budget to hire 30 new permit review staff in the department's land use, water supply and Safe Drinking Water programs. According to the Administration, the purpose of this expansion is to promote "smart growth" by ensuring a more coordinated review of development projects that affect multiple DEP programs. The authorized amount is manifested in the Budget Recommendation by two supplemental appropriations displayed on page D-119 under the "Salary and Wages" and "Services Other Than Personal" line items. This language is not recommended in FY 2005 because additional funding is included in the programs' regular operating accounts to support the new positions.



2004 Appropriations Handbook

2005 Budget Recommendations

No comparable language.

p. D-121

Direct State Services:
 Receipts in excess of those anticipated for Water Allocation Fees are appropriated to the Department of Environmental Protection for expansion of the Water Supply program, subject to the approval of the Director of the Division of Budget and Accounting.

p. B-60

Direct State Services:
 Notwithstanding any law to the contrary, funds shall be made available from the Water Resources Monitoring and Planning--Constitutional Dedication special purpose account to support nonpoint source pollution and watershed management programs within the Department of Environmental Protection in the amounts of \$1,536,000 for Water Monitoring and Planning, \$1,264,000 for Water Supply and Watershed Management, \$1,392,000 for New Jersey Geological Survey, \$157,000 for Watershed Management, \$500,000 for Forestry Management, and \$900,000 for Water Quality-Stormwater Management, and \$540,000 transferred to support the Conservation Cost Share program in the Department of Agriculture on or before September 1, 2003.

Direct State Services:
 Notwithstanding any law to the contrary, funds shall be made available from the Water Resources Monitoring and Planning--Constitutional Dedication special purpose account to support nonpoint source pollution and watershed management programs, consistent with the constitutional dedication, within the Department of Environmental Protection in the amounts of \$1,536,000 for Water Monitoring and Planning, [\$1,264,000 for Water Supply and Watershed Management,] \$1,392,000 for New Jersey Geological Survey, \$157,000 for Watershed Management, \$500,000 for Forestry Management, and \$900,000 for Water Quality-Stormwater Management, and \$540,000 transferred to support the Conservation Cost Share program in the Department of Agriculture on or before September 1, 200[3]4.

Language Provisions (Cont'd)

Explanation

The first provision above would appropriate any water allocation fee revenues collected in excess of the anticipated revenue amount from such fees to the department to expand the management of the water supply program. This expansion coincides with a scheduled increase in the water allocation fee rate and is expected to support at least six new employees to address the current backlog in processing water allocation permits. The new language also serves to offset and replace the elimination of \$1,264,000 in dedicated Corporation Business Tax revenues for the water supply program, as indicated in the second (amended) language provision shown above.

2004 Appropriations Handbook

No comparable language.

2005 Budget Recommendations

p. D-122

Direct State Services:

Notwithstanding the provisions of the "Spill Compensation and Control Act," P.L. 1976, c.141 (C.58:10--23.11 et seq.) or any law to the contrary, the amounts appropriated hereinabove for the Office of Permit Information and Assistance account and the Science, Research and Technology program classification, excluding the Greenhouse Gas Action Plan account, are chargeable to receipts anticipated from the New Jersey Spill Compensation Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Explanation

This language authorizes revenues generated from the Spill Compensation Fund to replace General Fund (GF) monies as the primary funding source for the designated accounts. This proposal is made in conjunction with a proposed increase in the Spill Fund tax rate and would replace a total of \$2.8 million in recommended appropriations to the subject accounts that would otherwise be funded from the GF.

Language Provisions (Cont'd)

SITE REMEDIATION AND WASTE MANAGEMENT

2004 Appropriations Handbook

2005 Budget Recommendations

p. B-61

Direct State Services:

The amount hereinabove for Underground Storage Tanks is appropriated from responsible party cost recoveries deposited in the Hazardous Discharge Site Cleanup Fund, together with an amount not to exceed \$448,000, for administrative costs associated with the cleanup of hazardous waste sites, subject to the approval of the Director of the Division of Budget and Accounting.

No comparable language.

Explanation

This account supports the private underground storage tank registration and monitoring unit. Its FY 2004 and recommended FY 2005 appropriations are \$832,000. The current language is not continued because this account will be funded from regular GF appropriations in FY 2005 due to uncertain cost recovery balances in the Hazardous Discharge Site Cleanup Fund.



2004 Appropriations Handbook

2005 Budget Recommendations

p. D-126

No comparable language.

Direct State Services:

Receipts in excess of the amount anticipated from Solid Waste Utility Regulation, are appropriated to the Solid and Hazardous Waste account for costs incurred to develop an Economic Competition Model, and to oversee the State's recycling efforts and other solid waste program activities.

Explanation

The Solid Waste Utility Regulation assessment (N.J.S.A. 48:2-60) helps support the State's cost of regulating the solid waste disposal industry. The Administration proposes to raise the assessment rate to its statutory cap or ceiling, thereby generating an additional \$650,000 in revenues in excess of the revenue amount anticipated in the Budget Recommendation. Any excess revenues would then be appropriated through the new language for the purposes specified therein. For example, \$100,000 would be targeted to develop the referenced "Economic Competition Model," a tool that would be used to evaluate key factors affecting the State's solid waste industry.

Language Provisions (Cont'd)

2004 Appropriations Handbook2005 Budget Recommendations

p. D-126

State Aid:

The amount hereinabove for the Local Tire Management Program is payable from receipts derived from a surcharge on the sale of new tires subject to the enactment of enabling legislation.

Explanation

The cited account, budgeted at \$2.3 million, refers to a new program to support local governments in cleaning up abandoned scrap tire piles that litter many areas of New Jersey. The program would be funded by a \$1.50 per tire surcharge on the sale of all new tires in the State. It is estimated that the surcharge will generate up to \$12.3 million annually, of which \$10 million would go to the Department of Transportation for snow removal and the balance would finance the scrap tire program. The proposed language therefore clarifies the program's funding source and its need for enabling legislation.

2004 Appropriations Handbook2005 Budget Recommendations

p. B-62

p. D-126

Capital Construction:

Of the amount hereinabove appropriated for Hazardous Substance Discharge Remediation--Constitutional Dedication, an amount up to \$5,000,000, as determined by the Director of the Division of Budget and Accounting, shall be made available for site remediation costs associated with State--owned properties.

Capital Construction:

Of the amount hereinabove appropriated for Hazardous Substance Discharge Remediation--Constitutional Dedication, [an amount up to \$5,000,000] such sums as necessary, as determined by the Director of the Division of Budget and Accounting, shall be made available for site remediation costs associated with State--owned properties and State-owned underground storage tanks.

Of the unexpended balances in the hereinabove account for Hazardous Substance Discharge Remediation--Constitutional Dedication, such sums as necessary, as determined by the Director of the Division of Budget and Accounting, shall be made available for site remediation costs associated with State--owned underground storage tanks.

No comparable language.

Language Provisions (Cont'd)

Explanation

The first provision above is amended by removing the limitation of \$5 million from constitutionally dedicated Corporation Business Tax (CBT) revenues to support remediation costs of hazardous discharge cleanups of State-owned properties. It is further amended by extending the definition of "State-owned properties" to include State-owned properties contaminated by on-site, leaking underground storage tanks. The latter amendment also serves to replace the second FY 2004 provision above, which authorizes only unexpended balances for this purpose. The subject account, which utilizes CBT appropriations to finance the department's remediation efforts at privately-owned or abandoned sites, is currently funded at \$51.4 million and is recommended to receive \$52.4 million in FY 2005.



2004 Appropriations Handbook

No comparable language.

2005 Budget Recommendations

p. D-126

Capital Construction:

Funds made available for the remediation of the discharges of hazardous substances pursuant to the amendments effective December 4, 2003, to Article VIII, Section II, paragraph 6 of the State Constitution and appropriated hereinabove, shall be allocated to the Economic Development Authority's Hazardous Discharge Site Remediation Fund and the Department of Treasury's Brownfield Site Reimbursement Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Explanation

This language clarifies recent voter approval to amend the State Constitution to use dedicated Corporation Business Tax (CBT) revenues for loans or grants to clean up brownfields sites. It provides that one-half of the CBT amount annually dedicated to the Private Underground Storage Tank Remediation Program be appropriated to the Brownfields Program, which is jointly administered by the department and the N. J. Economic Development Authority (EDA).

The brownfields allocation, a \$19.8 million appropriation under the "Hazardous Substance Discharge Remediation Loans and Grants - Constitutional Dedication" line item, is the same amount as the Private Underground Storage Tank line item. The amendment also provides that \$2 million of the new allocation be used to support a State Underground Storage Tank Inspection Program. Additional language is proposed for this purpose (see end of this section).

The proposed language allocates these funds to the EDA's Hazardous Discharge Site Remediation Fund, which finances the Brownfields Program. The language also directs these monies to the Brownfield Site Reimbursement Fund, which awards certified brownfields developers with a rebate on certain taxes generated on redeveloped brownfields properties, pursuant to P.L. 1997, c.278.

Language Provisions (Cont'd)

ENVIRONMENTAL REGULATION

2004 Appropriations Handbook2005 Budget Recommendations

p. D-130

No comparable language.

Direct State Services:

Notwithstanding the provisions of the "Spill Compensation and Control Act," P.L. 1976, c.141 (C.58:10--23.11 et seq.) or any law to the contrary, the amount appropriated hereinabove for the Quality Assurance -- Lab Certification Programs is chargeable to receipts anticipated from the New Jersey Spill Compensation Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Explanation

This language authorizes revenues generated from the Spill Compensation Fund to replace General Fund (GF) monies as the funding source for the designated account. This proposal is made in conjunction with a proposed increase in the Spill Fund tax rate and would replace \$1.6 million in recommended funding to this account that would otherwise be funded from the GF.

COMPLIANCE AND ENFORCEMENT

2004 Appropriations Handbook2005 Budget Recommendations

p. D-136

No comparable language.

State Aid:

Notwithstanding the provisions of the "Spill Compensation and Control Act," P.L. 1976, c.141 (C.58:10--23.11 et seq.) or any law to the contrary, the amount appropriated hereinabove for the County Environmental Health Act is chargeable to receipts anticipated from the New Jersey Spill Compensation Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Explanation

This language authorizes revenues generated from the Spill Compensation Fund to replace Property Tax Relief Fund (PTRF) monies as the funding source for the cited account. This proposal is made in conjunction with a proposed increase in the Spill Fund tax rate and would replace \$2.5 million in recommended funding to this account that would otherwise be funded from the PTRF.

Language Provisions (Cont'd)**DEPARTMENT-WIDE****p. D-136**

No comparable language.

Of the amount hereinabove for the Hazardous Substance Discharge Remediation Loans and Grants--Constitutional Dedication account, an amount not to exceed \$2,000,000 shall be allocated for costs associated with the State Underground Storage Tank Inspection Program, pursuant to the amendments effective December 4, 2003, to Article VIII, Section II, paragraph 6 of the State Constitution.

Explanation

These recently approved amendments to the State Constitution, as explained earlier in this section, expands the use of environmentally dedicated Corporation Business Tax (CBT) revenues to support a new State Underground Storage Tank Inspection program within the department. The amendment also provides that one-half of the CBT amount annually dedicated to the Private Underground Storage Tank Remediation Program be appropriated to the Brownfields Program, the account cited in the proposed language. In FY 2005, the \$19.8 million appropriation to this account would therefore provide the \$2 million for the new inspection program.

Discussion Points

1. During the past two years, over 20 fees charged by the department for various regulatory services were increased. According to the department's response to OLS Discussion Points last year, these increases generated \$14.2 million in additional revenues in FY 2003 and an estimated \$24.7 million during FY 2004. This policy was instituted to bring each DEP fee to a level that fully supports the cost of operating its related program. In the FY 2005 Budget Recommendation, fee increases are scheduled for toxic catastrophe prevention, radiation protection, water allocation, nuclear emergency response, solid waste management, and the Spill Compensation Fund.

- **Question:** Please update the additional fee revenue estimates from last year's departmental response. For the upcoming fee increases mentioned above, please provide data on the current and revised rate schedules, additional revenues and disposition, dates of last rate increase and new increase, and the authority under which the new increases will be effectuated. How have recent fee changes affected staffing and program activity? Have recent fee rate changes generated sufficient revenues to fully support program costs?

2. Federal enactments and federal budget proposals often impact significantly on State programs and fiscal resources. For example, the proposed federal FY 2005 budget increases Superfund monies by 10 percent nationally but cuts \$500 million nationally from the EPA's sewage treatment facility program. This reduction could adversely affect the financial resources of the N.J. Environmental Infrastructure Trust, which receives such federal assistance to help provide loans to local governments for wastewater facility repairs and improvements.

- **Question:** What impact will the expectation of (a) increased or decreased federal funding, or (b) new or revised federal mandates or matching requirements, have on the department's resources and activities in FY 2005? Please be specific with regard to the expected federal action and the corresponding State or local impact.

3. In November, 2003, voters approved a \$200 million bond issue authorized by the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003" (P.L. 2003, c.162). The act allocates \$15 million for restoration of State-owned dams, \$95 million in project assistance for owners of privately-owned dams, \$25 million for flood control projects, \$15 million for lake and stream projects, and \$50 million for water resource or wastewater treatment projects.

- **Question:** Please provide project information concerning the disposition of the bond funds cited above. How do these resources affect current related programs in terms of program expansion and replacement or augmentation of existing funding sources? Please estimate the administrative costs for each program supported by the bond act.

4. In November, 2003, voters approved amendments to Article VIII, Section II, paragraph 6 of the State Constitution to authorize environmentally dedicated Corporation Business Tax (CBT) revenues for financing loans or grants for hazardous discharge cleanups of brownfields sites. The amendments also allocated \$2 million from the brownfields appropriation to support a State underground storage tank inspection program. The amendments provide that one-half of the annual CBT dedication to the Private Underground Storage Tank Remediation Program be appropriated to the Brownfields Program which, like the former program, is jointly administered by the department and the New Jersey Economic Development Authority (EDA). Two capital accounts in the department's recommended budget (page D-125) reflect this allocation.

Discussion Points (Cont'd)

- **Question:** Please describe the objectives of the underground storage tank inspection program, including its operating budget, staffing needs and fee revenues. How will this program differ from the department's present underground storage tank responsibilities? Please discuss how the influx of new funding will affect the EDA's Brownfields Program and the department's program responsibilities. What is the current demand for financial assistance for brownfields and underground storage tank remediation projects? Pursuant to proposed language, how much is expected to be allocated from the brownfields appropriation to the Treasury Department's Brownfield Site Reimbursement Fund?
5. The Local Tire Management program is a new State Aid line item appropriating \$2.3 million to support local governments in cleaning up abandoned scrap tire piles that currently litter many areas of New Jersey. The program would be funded, pending enabling legislation, by a new \$1.50 per tire surcharge on the sale of all new tires in the State. It is estimated that the surcharge will generate up to \$12.3 million annually, with \$10 million being allocated to the Department of Transportation's (DOT) snow removal budget. A similar effort directed at counties, called the Scrap Tire Management Fund Entitlement Program, was established in FY 2001 and lasted for two years.
- **Question:** Please provide information on the implementation of this program, including an operating budget and staff requirements. How is this program different than the previous one cited above? If less than \$12.3 million in surcharge revenues are collected in any one year, what effect will this have on the allocation of these monies?
6. The Urban Forest Energy Efficiency Initiative, as announced by the Governor in his 2003 State of the State address, is a three-year plan to plant 100,000 new trees in urban and older suburban communities for the purpose of reducing urban heat islands and promoting energy conservation. The plan's estimated cost of \$38 million is being provided by the Board of Public Utilities from the State Clean Energy Fund, which is supported by societal benefit charges on utility bills. According to budget records, the initial contribution of \$2 million by the BPU was transferred to the department in August, 2003. However, this amount is displayed on page D-116 as an increase in the Forest Resource Management's off-budget line item total for FY 2005.
- **Question:** What is the current status of this program and what are its objectives for FY 2005? Why is the initial \$2 million allocation from the BPU included in the FY 2005 budget totals rather than in FY 2004? How much does the department expect to receive from BPU during FY 2005 and where will these funds be utilized?
7. One of the Administration's major environmental policies has been to strengthen the enforcement and compliance units of the department in order to shift the cost of environmental enforcement from taxpayers to polluters. In FY 2004, budget language was introduced to appropriate up to \$1.5 million in "excess" solid waste, air and clean water fines to the department for enforcement expansion. This amount appears as a supplemental appropriation on page D-135 under the "Services Other Than Personal" line item. Similar budget language is proposed in FY 2005, but it is expanded to include excess fines from the land use and hazardous waste programs.
- **Question:** Please describe how the FY 2004 and FY 2005 appropriations of fine revenues will expand the department's enforcement capabilities. Will this expansion be applied to chemical or nuclear plant security and, if so, in what manner? Was any federal homeland security funds been available for this purpose? Is the previous Administration's policy of negotiating improvements to facilities rather than imposing fines still being utilized today?

Discussion Points (Cont'd)

8. In September, 2003, the DEP commissioner convened a task force to conduct a comprehensive review of the State parks and forest system and its future needs. Its findings were released in January, 2004 and identified capital needs in excess of \$220 million, suggested certain organizational changes, recommended capacity analyses of State parks, and discussed various staffing issues. It also compiled a list of possible sites for the two new State parks the Governor recommended in 2003.

- **Question:** Please discuss the task force's findings mentioned above, especially in terms of identifying those that the department may address or implement during FY 2005 or thereafter. What is the status of the plan to establish two new State parks?

9. In November 2003, voters approved a constitutional amendment to expand the bonding capability of the Garden State Preservation Trust Fund (GSPTF) to make available \$150 million in additional funding for open space, farmland, and historic preservation. Some of the stated goals of the amendment were to provide additional Green Acres funding to upgrade or create 200 community parks.

- **Question:** Please provide updated information detailing the GSPTF's 30-year expenditure and debt service obligation schedule based upon this new bonding capacity. Please detail the anticipated use of these funds and include, if possible, projected expenditures for urban areas and the locations of the community park projects identified thus far.

10. The Governor announced in his State of the State address an environmental initiative to reduce smog and pollution from diesel emissions by 20 percent over the next six to 10 years. Press reports indicated that this reduction would be accomplished primarily through a \$150 million program that would retrofit public and private diesel trucks, buses, and construction vehicles with equipment to reduce soot emissions from diesel engines. The DEP Commissioner indicated to the press that the plan that would call for retrofitting 25,000 buses, garbage trucks, and construction equipment with filters that cost between \$1,500 and \$6,000 per engine.

- **Question:** Please discuss the accuracy of the press reports concerning the size, cost and the scope of the program. Is the estimated cost cited above annual or total? What other administrative costs are associated with the program and how will it be financed? How does the proposed budget language (page D-136) appropriating \$300,000 from potential diesel-related fees for diesel exhaust reduction relate to this program? Will money from the "Commercial Vehicle Fund" (P.L.1995, c.157) be used for the retrofitting purposes?

11. In November 2003, New Jersey voters approved a public question that authorized the State to take advantage of low bond interest rates by increasing the borrowing ceiling on Garden State Preservation Trust Fund (GSPTF) bonds by \$150 million, from \$1 billion to \$1.15 billion. The first sale of open space bonds for the Fund totaled \$500 million and were issued in March 2003. The Governor pledged to direct \$50 million of the additional amount toward the acquisition or preservation of open space in the New Jersey Highlands. The Administration is also supporting efforts through his Highlands Task Force and recently introduced legislation to create permanent policies, guidelines and a regional planning entity to govern future development and conserve natural resources in this region. Some of these policies may affect the property value of lands targeted for such preservation or restricted usage.

Discussion Points (Cont'd)

- *Question:* How and when will the \$50 million in bond monies pledged to the Highlands be utilized? How many acres are expected to be acquired or preserved with this amount? How accurate is the Task Force's estimate of \$500 million needed to purchase lands of the "highest environmental quality" in the Highlands? What are some of the options being discussed to fiscally address the potential loss of property values resulting from proposed preservation or regulatory policies in the Highlands?

Background Paper: Financial Support to Municipalities for State Preservation Actions

The creation of the Highlands Task Force by the Governor and the subsequent introduction of legislation that incorporates many of its findings raises the issue of how the State has aided municipalities impacted by earlier efforts to preserve sensitive areas.

The following monies have been appropriated to aid municipalities affected by the State's Watershed Moratorium of 1996 and conservation efforts in the Pinelands:

Pinelands Municipal Property Tax Stabilization Fund

This aid program was created under P.L. 1983, c.551 as a partial response to the property tax base losses that would follow the enactment of the "Pinelands Protection Act" in 1979. The initial appropriation of \$800,000 was included in the FY 1985 State Budget, with \$650,000 appropriated annually thereafter through FY 1990, when the Fund expired statutorily. Funds were distributed to Pinelands municipalities who demonstrated that property values for vacant land declined as a result of State and federal preservation statutes. A total of 28 towns received aid from the Fund. Total appropriations: \$4,050,000

Pinelands Area Municipality Aid

These grants were initiated by the Legislature in the FY 1996 State Budget with an appropriation of \$750,000. Funding was aimed at seven municipalities with at least 50% of their land in one or more land conservation designations: Estelle Manor, Mullica, Weymouth, Bass River, Washington, Woodland, and Maurice River. The Legislature included annual appropriations of \$675,000 for this account in FY 1997 through FY 1999, and \$776,000 in FY 2000 through FY 2002. Total appropriations: \$5,103,000

Watershed Moratorium Offset Aid

This aid was first included in the State Budget in FY 1997 with an appropriation of \$2 million. It was established in response to an 18-month State moratorium, originally issued in 1988 and continued in 1990, on the sale of watershed lands owned by water companies. Most of these lands were situated in the Highlands region. The moratorium was designed to be in effect until regulations were promulgated that established buffer zones around water supply areas. Such regulations were finally issued in early 2004.

Accompanying budget language specified that the following six towns would receive \$68.50 per acre of eligible watershed land that was located within each town: Vernon, Hardyston, Rockaway, Jefferson, Kinnelon, and West Milford. The same appropriation and budget language were included in the FY 1998 and FY 1999 State Budgets.

In FY 2000, an appropriation of \$3.4 million pursuant to P.L. 1999, c.225 continued watershed moratorium aid, with the stipulation that it could be allocated to any qualified town in the watershed moratorium area pursuant to a formula. No specific towns were named. Subsequent appropriations of \$3.285 million and \$3.382 million were included in the FY 2001 and FY 2002 State Budgets respectively, with allocations controlled by the statutory language. Total appropriations: \$16,067,000

Background Paper: The State Transfer of Development Rights Program

P.L. 2004, c.2 was recently enacted to facilitate the creation of transfer of development rights (TDR) programs by local governments. These programs are designed to encourage a shift in residential or commercial growth away from agricultural, environmentally sensitive or open space regions of a municipality to more appropriate areas. Farmers or landowners in areas where land use is restricted are therefore allowed and encouraged to sell their development rights or development credits to builders, who then may use them to build elsewhere in a designated growth area at a higher density than is normally allowed in a town's zoning ordinance.

A traditional TDR program usually operates through a special, publicly chartered bank, which functions primarily as a facilitator for private transfers of development rights. It can also buy development credits for later sale only as a last resort purchaser when the private market for sellers and buyers of these credits is not operating efficiently. Unlike a state-sponsored farmland preservation program, a typical TDR program is not generally used for easement or fee simple purchases. It nonetheless complements farmland preservation programs by allowing for the purchase of development potential in critical areas.

To promote this strategy in New Jersey, the "State Transfer of Development Rights Bank Act" was enacted in 1993. The act, based partly on a pilot TDR program adopted in Burlington County in 1989, created a statewide TDR Bank that was capitalized by a \$20 million appropriation from the "Open Space Preservation Bond Act of 1989". These bond monies were intended to provide matching funds for the purchase of 80% of the value of development potential of land involved in a TDR program. Landowners who received credits as a result of a TDR program could apply to sell development potential to the TDR Bank. It was anticipated that these purchases would constitute the bulk of expenditures from the \$20 million appropriation (as detailed later, this has not yet occurred). The act also allocated \$800,000 of the \$20 million to be divided equally for administration and for planning assistance grants of \$10,000 each to municipalities that have adopted "viable development transfer" ordinances.

The State TDR Bank is located in, but not of, the State Agriculture Development Committee (SADC), an independent agency of the Department of Agriculture that manages the Farmland Preservation Program and related activities. In addition to providing financial and other assistance to landowners and municipalities that enact TDR ordinances, the Bank maintains a statewide registry of lands protected through the transfer of development rights. Its Board of Directors is staffed by the SADC.

As previously noted, a pilot TDR program was created in Burlington County in 1989, pursuant to the "Burlington County Transfer of Development Rights Demonstration Act". This act authorized municipalities in Burlington County (with county planning board approval) to adopt the "viable development transfer" ordinances cited in the statewide TDR act. To date, Burlington County is the only county in the State where municipalities can exercise this authority. However, only two of its municipalities, Chesterfield and Lumberton townships, having taken any action thus far. Not coincidentally, these two towns have also received the only \$10,000 State planning assistance grants awarded from the State TDR Bank. The new TDR law establishes a statewide TDR program largely based on the Burlington County pilot program.

The only example thus far of a publicly sponsored TDR program being put into practice in New Jersey has occurred in Chesterfield Township, where a 175-unit housing development was approved in a restricted "development growth" area of the township. In return, the remaining two-thirds of the township remains preserved for farmland and other non-development purposes.

Background Paper: The State Transfer of Development Rights Programs (Cont'd)

While the new TDR law allows local governments to establish their own TDR bank, it also allows them to use the State TDR Bank as well as the remaining 1989 bond money designated for planning grants. With nearly \$20 million still available from these bonds, the State bank could offer sufficient capital to act as a last resort purchaser of development credits, or act as a conduit of funding for any local TDR banks that might be established in the future.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services provides nonpartisan assistance to the State Legislature in the areas of legal, fiscal, research, bill drafting, committee staffing and administrative services. It operates under the jurisdiction of the Legislative Services Commission, a bipartisan body consisting of eight members of each House. The Executive Director supervises and directs the Office of Legislative Services.

The Legislative Budget and Finance Officer is the chief fiscal officer for the Legislature. The Legislative Budget and Finance Officer collects and presents fiscal information for the Legislature; serves as Secretary to the Joint Budget Oversight Committee; attends upon the Appropriations Committees during review of the Governor's Budget recommendations; reports on such matters as the committees or Legislature may direct; administers the fiscal note process and has statutory responsibilities for the review of appropriations transfers and other State fiscal transactions.

The Office of Legislative Services Central Staff provides a variety of legal, fiscal, research and administrative services to individual legislators, legislative officers, legislative committees and commissions, and partisan staff. The central staff is organized under the Central Staff Management Unit into ten subject area sections. Each section, under a section chief, includes legal, fiscal, and research staff for the standing reference committees of the Legislature and, upon request, to special commissions created by the Legislature. The central staff assists the Legislative Budget and Finance Officer in providing services to the Appropriations Committees during the budget review process.

Individuals wishing information and committee schedules on the FY 2005 budget are encouraged to contact:

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